

106TH CONGRESS
2D SESSION

H. R. 5463

To amend the Internal Revenue Code of 1986 to affirm the confidentiality of closing and similar agreements and agreements with foreign governments.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2000

Mr. HOUGHTON (for himself, Mr. SAM JOHNSON of Texas, and Mr. LEVIN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to affirm the confidentiality of closing and similar agreements and agreements with foreign governments.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CONFIDENTIALITY OF CERTAIN DOCUMENTS**

4 **RELATING TO CLOSING AND SIMILAR AGREE-**
5 **MENTS AND TO AGREEMENTS WITH FOREIGN**
6 **GOVERNMENTS.**

7 (a) CLOSING AND SIMILAR AGREEMENTS TREATED
8 AS RETURN INFORMATION.—Paragraph (2) of section
9 6103(b) of the Internal Revenue Code of 1986 (defining

1 return information) is amended by striking “and” at the
 2 end of subparagraph (B), by inserting “and” at the end
 3 of subparagraph (C), and by inserting after subparagraph
 4 (C) the following new subparagraph:

5 “(D) any agreement under section 7121,
 6 and any similar agreement, and any back-
 7 ground information related to such an agree-
 8 ment or request for such an agreement,”.

9 (b) AGREEMENTS WITH FOREIGN GOVERNMENTS.—

10 (1) IN GENERAL.—Subchapter B of chapter 61
 11 of such Code (relating to miscellaneous provisions) is
 12 amended by inserting after section 6104 the fol-
 13 lowing new section:

14 **“SEC. 6105. CONFIDENTIALITY OF INFORMATION ARISING**
 15 **UNDER TREATY OBLIGATIONS.**

16 “(a) IN GENERAL.—Tax convention information shall
 17 not be disclosed.

18 “(b) EXCEPTIONS.—Subsection (a) shall not apply—

19 “(1) to the disclosure of tax convention infor-
 20 mation to persons or authorities (including courts
 21 and administrative bodies) which are entitled to such
 22 disclosure pursuant to a tax convention,

23 “(2) to any generally applicable procedural
 24 rules regarding applications for relief under a tax
 25 convention, or

1 “(3) in any case not described in paragraphs
2 (1) or (2), to the disclosure of any tax convention
3 information not relating to a particular taxpayer if
4 the Secretary determines, after consultation with
5 each other party to the tax convention, that such
6 disclosure would not impair tax administration.

7 “(c) DEFINITIONS.—For purposes of this section—

8 “(1) TAX CONVENTION INFORMATION.—The
9 term ‘tax convention information’ means any—

10 “(A) agreement entered into with the com-
11 petent authority of one or more foreign govern-
12 ments pursuant to a tax convention,

13 “(B) application for relief under a tax con-
14 vention,

15 “(C) any background information related
16 to such agreement or application,

17 “(D) document implementing such agree-
18 ment, and

19 “(E) any other information exchanged pur-
20 suant to a tax convention which is treated as
21 confidential or secret under the tax convention.

22 “(2) TAX CONVENTION.—The term ‘tax conven-
23 tion’ means—

24 “(A) any income tax or gift and estate tax
25 convention, or

1 “(B) any other convention or bilateral
 2 agreement (including multilateral conventions
 3 and agreements and any agreement with a pos-
 4 session of the United States) providing for the
 5 avoidance of double taxation, the prevention of
 6 fiscal evasion, nondiscrimination with respect to
 7 taxes, the exchange of tax relevant information
 8 with the United States, or mutual assistance in
 9 tax matters.

10 “(d) CROSS REFERENCES.—

**“For penalties for the unauthorized disclosure of
 tax convention information which is return or re-
 turn information, see sections 7213, 7213A, and
 7431.”.**

11 (2) CLERICAL AMENDMENT.—The table of sec-
 12 tions for subchapter B of chapter 61 of such Code
 13 is amended by inserting after the item relating to
 14 section 6104 the following new item:

“Sec. 6105. Confidentiality of information arising under treaty
 obligations.”.

15 (c) EXCEPTION FROM PUBLIC INSPECTION AS WRIT-
 16 TEN DETERMINATION.—

17 (1) CLOSING AND SIMILAR AGREEMENTS.—
 18 Paragraph (1) of section 6110(b) of such Code is
 19 amended to read as follows:

20 “(1) WRITTEN DETERMINATION.—

21 “(A) IN GENERAL.—The term ‘written de-
 22 termination’ means a ruling, determination let-

1 ter, technical advice memorandum, or Chief
2 Counsel advice.

3 “(B) EXCEPTIONS.—Such term shall not
4 include any matter referred to in subparagraph
5 (C) or (D) of section 6103(b)(2).”.

6 (2) AGREEMENTS WITH FOREIGN GOVERN-
7 MENTS.—Paragraph (1) of section 6110(l) of such
8 Code is amended by inserting “or 6105” after
9 “6104”.

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on the date of the enactment
12 of this Act.

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